

Assembly Bill No. 2400

CHAPTER 1164

An act to amend Section 20502 of, and to add Section 20306 to, the Government Code, relating to public employees.

[Approved by Governor September 30, 1996. Filed
with Secretary of State September 30, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2400, Miller. Public employees: local retirement systems.

(1) Existing law provides that classified school employees are members of the Public Employee's Retirement System and authorizes local agencies, including school districts, to establish pension trusts for the benefit of their officers and employees.

This bill would provide that represented part-time school and public agency employees may participate in an alternate retirement plan established as a pension trust in accordance with a memorandum of understanding and that the eligibility of unrepresented part-time employees to participate in the alternate retirement plan would be determined by the employer.

(2) The Public Employees' Retirement Law authorizes contracting agencies and the retirement board to agree to exclusions of groups of employees from contracts for system coverage.

This bill would provide that those contracts could not provide for exclusion of some, but not all, firefighters, police officers, or county peace officers and would make a statement of legislative intent.

The people of the State of California do enact as follows:

SECTION 1. Section 20306 is added to the Government Code, to read:

20306. (a) Notwithstanding paragraph (1) of subdivision (a) of Section 20305, an employee participating in this system, other than a local safety member, who is credited with less than five years of state service and whose service falls below the minimum service prescribed by paragraph (2) of, or subparagraph (A) or (B) of paragraph (3) of, subdivision (a) of Section 20305 and who is eligible for membership in an alternate retirement plan established or maintained by the county superintendent of schools or the public agency pursuant to Article 1.5 (commencing with Section 53215) of Chapter 2 of Part 1 of Division 2 of Title 5, may participate in that plan in accordance with the following provisions:

(1) Eligibility to participate in an alternate retirement plan for an employee who is employed on or after July 1, 1997, or the effective

date of the establishment of an alternate retirement plan, whichever is later, and who is represented by an exclusive bargaining representative shall be determined by the provisions of a memorandum of understanding executed between the public agency and the exclusive bargaining representative of the employee. That memorandum of understanding shall prescribe all of the terms and conditions under which the alternate plan is established including the employer and employee contribution rates.

(2) Eligibility to participate in an alternate retirement plan for an employee who is employed on or after July 1, 1997, or the effective date of the establishment of an alternate retirement plan, whichever is later, and who is not represented by an exclusive bargaining representative shall be determined by the public agency.

(3) Eligibility to participate in an alternate retirement plan established prior to July 1, 1997, for an employee who is employed prior to that date, or for plans established on or after July 1, 1997, for an employee who is employed prior to the date the plan is established, shall be determined by the employee in accordance with the following election procedures:

(A) The employer shall make available to each employee prior to October 1, 1997, or at least 90 days prior to the proposed effective date of the alternate retirement plan, whichever is later, information describing the employee's rights and responsibilities as a participant in either this system or the alternate retirement plan offered by the employer and describing the benefits provided by this system and that alternate retirement plan. The information shall include all of the terms and conditions under which the system and the alternate retirement plan are established including the employer and employee contribution rates.

(B) An employee who fails to make an election prior to January 1, 1998, or 90 days after being given the election opportunity, whichever is later, shall be informed by the employer by certified mail that the failure to make that election has been deemed an election to participate in the alternate retirement plan whenever his or her employment fall below the requirements prescribed by Section 20305.

(C) The employer shall maintain in its files a written acknowledgment by the employee that the employee received the information required under this section within the specified timeframe and shall maintain election results and election forms of employees.

(D) The employer shall notify the system as to the results of election by employees in the manner prescribed by the board.

(b) An employee's participation in the alternate retirement plan shall commence as soon as it is reasonable for this system to determine the member's qualifications pursuant to Section 20305. Employers shall submit all information deemed necessary for this

system to make those determinations. Participation in the alternate retirement plan shall continue until the system determines that the employee's employment meets the conditions for membership in this system, whereupon the employee shall reenter membership in this system.

(c) Each county superintendent of schools may make the school districts in the county responsible for any administrative acts which may be necessary to implement this section. Any cost incurred by a county superintendent of schools in complying with this section shall be reimbursed on a proportional basis by those school districts in the county participating in an alternative retirement system.

SEC. 2. Section 20502 of the Government Code is amended to read:

20502. The contract shall include in this system all firefighters, police officers, county peace officers, and other employees of the contracting agency, except as exclusions in addition to the exclusions applicable to state employees may be agreed to by the agency and the board. The contract shall not provide for the exclusion of some, but not all, firefighters, police officers, or county peace officers. The exclusions of employees, other than firefighters, police officers, or county peace officers, shall be based on groups of employees such as departments or duties, and not on individual employees. The exclusions of groups may be made by amendments to contracts, with respect to future entrants into the group. The board may disapprove the exclusion of any group, if in its opinion the exclusion adversely affects the interest of this system. Membership in this system is compulsory for all employees included under a contract. This section shall not be construed to supersede Sections 20303 and 20305.

SEC. 3. (a) The Legislature hereby declares that the intent of the amendments to Section 20502 of the Government Code by this act is to clarify the conditions under which part-time employees who are firefighters, police officers, or county deputy sheriffs are included in or excluded from membership in the Public Employees' Retirement System. In clarifying the conditions for membership, it is further the intent of these amendments to neither include nor exclude a part-time firefighter, police officer, or county deputy sheriff employee on any basis other than conditions prescribed by the Public Employees' Retirement Law and the regulations in effect on January 1, 1997.

(b) The Legislature hereby further declares that the amendments to Section 20502 of the Government Code by this act shall not be construed to nullify or otherwise impair the fourth amendment to the contract, effective on August 1, 1973, made between the City of Eureka and the Public Employees' Retirement System pursuant to



Section 20460 of the Government Code, nor to contravene Sections 20303, 20305, 20481, 20482, or 20503 of the Government Code.

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